REMARKS/ARGUMENTS

Claims 1-48 are pending in the application. Claims 1-48 stand rejected under 35 U.S.C. §103 as being unpatentable over Lavin et al. in view of Kraftson et al.

Initially, Applicant and his attorney would like to thank the Examiner, Mr. Frenel and the Examiner's supervisor, Mr. Thomas, for the courtesies extended in a telephone interview held December 23, 2003. During that telephone interview, Applicant and his counsel discussed claim 1 and the Lavin et al. and Kraftson et al. references.

With respect to Lavin et al., Lavin et al. is a system for managing patient medical records, not a system for (1) determining at least one treatment option and (2) matching a consumer with a healthcare service provider based on a treatment preference, wherein the treatment preference may include the geographical location of the provider, insurance plan participation, cost, provider experience with the at least one treatment option and provider outcome with respect to the at least one treatment option.

According to the present invention, a system is provided to match a consumer of healthcare services to a healthcare service provider over a communications network. The program includes a computer terminal, a network server and a computer program including a service provider database identifying a plurality of healthcare service providers and associated healthcare service products offered by the service provider. The system further comprises a first software portion for automatically determining at least one treatment option based on a diagnosis provided by the consumer or determined by an alternative diagnosis determiner. During the interview, the Examiners pointed out that they interpreted the language "methodology" as potentially reading on a manual method of determining a treatment. Accordingly, the Examiner's pointed to selections in the Kraftson et al. reference where Kraftson et al. discuss treatments. Applicant pointed out that the treatments referred to, for example, at col. 1 of Kraftson et al. are classic physician determined treatments based on the physician's evaluation of the patient. In contrast, the present invention utilizes a computer program to automatically determine at least one treatment option based upon a diagnosis which can be provided by the consumer or can be determined by an alternative diagnosis determiner, as described in the specification.

As pointed out by Applicant, the Kraftson et al. reference does not show any automatic computer means for determining an appropriate treatment option. Kraftson et al., in fact, is merely a system for collecting and populating a database with physician/patient data for processing to improve practice quality and healthcare delivery, for example, for retrospective

analysis of the date to improve future performance. The system of Kraftson et al. is directed to collecting patient information from surveys and analyzing the data to improve patient care, health outcomes and the management of physician practices. It does not teach or suggest (1) a software portion for automatically determining at least one treatment option and (2) a software portion for automatically determining an appropriate service provider based on a treatment preference. Accordingly, the Kraftson et al. reference does not teach or suggest the invention, taken alone or in combination with the Lavin et al. reference. The Examiners concede that Lavin et al. does not show the first and second software portions, formerly referred to as "methodologies". See page 3 of the Final Office Action, first two paragraphs.

As now amended, the "methodologies" of the claims as filed have been changed to "software portions". See claim 1 and claim 33. The specification states that the methodology described in Fig. 3 is implemented by software. See, for example, page 11, lines 9-10 "Fig. 3 shows a flow chart for software implementing the invention...".

Further, in order to distinguish the references, both the first and second software portions operate automatically. That is, the first software portion automatically determines at least one treatment option and the second software portion automatically determines at least one appropriate service provider based upon a treatment preference. The Examiners suggested language to this effect during the interview. It is submitted that this language distinguishes manual methods of determining a treatment option and an appropriate service provider.

Further, the Examiners also had questions about the distinction between a "treatment" and a "treatment preference".

The claims have been amended to clarify that these are different terms. The system of the invention is capable of automatically determining at least one "treatment option", i.e., one or a number of treatment options based on the diagnosis. The system is also capable of determining an appropriate service provider for the at the least one treatment option including an appropriate service provider for each treatment option if there is more than one treatment option. It is submitted that the claims are clear in this regard.

The "treatment preference" is a different term than the "treatment option". The "treatment options" refer to the various options for treating the patient based upon the submitted diagnosis. The "treatment preferences" are utilized to determine an appropriate service provider. The "treatment preferences" allow prioritization or selection of at least one of a number of factors such as geographical location of the service provider, insurance plan participation, cost,

provider experience with the at least one treatment option and provider outcome with respect to the at least one treatment option. Accordingly, the system of the invention automatically determines at least one appropriate service provider based on at least one of the defined treatment preferences. So, for example, the program can be set up such that once the treatment options are determined, the service provider is automatically determined based upon geographical location of the service provider or insurance plan participation or cost or provider experience with the treatment option or provider outcome with respect to the treatment option. Alternatively, more than one of the treatment preferences can be used to determine the appropriate service provider or all of the treatment preferences can be utilized to determine the appropriate service provider (or only one treatment preference can be used to make this determination).

Applicant submits that the amendments made have now clarified the claims. Applicant further submits that the claims are distinguishable patentably over the references of record, which do not teach or suggest the claimed first and second software portions as recited in claim 1 or as recited in method claim 17, the steps of automatically determining with the computer program at least one treatment option and automatically determining with the computer program at least one appropriate service provider, as claimed. See also, the amendments to claim 33, which are similar. The dependent claims have been amended for consistency, as necessary.

Accordingly, in view of the above, Applicant submits that all claims in this application are now in condition for allowance, prompt notification of which is requested.

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